

KEYWORD: Financial

DIGEST: Between 2001 and 2005, Applicant accrued \$12,000 of delinquent debt. Her financial problems were caused by lost income resulting from her husband's employment downturn, and medical bills related to her daughter's serious illness. Since her husband found a steady job in November 2006, she has made substantial good-faith efforts to rehabilitate her finances. The likelihood of recurrence of her past problems is minimal. Clearance is granted.

CASENO: 06-24688.h1

DATE: 07/30/2007

DATE: July 29, 2007

In re:

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SSN: -----

Applicant for Security Clearance

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) ISCR Case No. 06-24688  
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**DECISION OF ADMINISTRATIVE JUDGE  
MARC E. CURRY**

**APPEARANCES**

**FOR GOVERNMENT**

Ray T. Blank, Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Between 2001 and 2005, Applicant accrued \$12,000 of delinquent debt. Her financial problems were caused by lost income resulting from her husband's employment downturn, and medical bills related to her daughter's serious illness. Since her husband found a steady job in November 2006, she has made substantial good-faith efforts to rehabilitate her finances. The likelihood of recurrence of her past problems is minimal. Clearance is granted.

### **STATEMENT OF THE CASE**

On April 11, 2007, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) explaining why it was not clearly consistent with the national interest to grant or continue a security clearance. This action was taken under Executive Order 10865, dated February 20, 1960, as amended, and DoD Directive 5220.6, dated January 2, 1992, as amended. She answered the SOR on May 11, 2007, admitting the allegations and requesting a hearing. She waived her right to 15 days minimum notice of hearing.

The case was assigned to me on May 31, 2007. That day, DOHA issued a notice of hearing scheduling the hearing for June 12, 2007. During the hearing, I received five government exhibits, seven Applicant exhibits, and Applicant's testimony. At Applicant's request, I left the record open for her to submit additional exhibits. Within the time allotted, she submitted five additional exhibits received as H through L. DOHA received the transcript on July 6, 2007.

### **FINDINGS OF FACT**

The SOR admissions are incorporated into the findings of fact. In addition, I make the following findings of fact.

Applicant is a 31-year-old married woman with two children, ages eleven and nine. She has a high school education. For the past six years she has worked as an accounting clerk for a company that, among other things, provides food services for the armed forces. Specifically, she "is responsible for electronically forwarding dining facility and warehouse orders and receipts . . . to [her company's] vendors" (Exhibit D, Supervisor's Reference Letter, dated June 5, 2007). Applicant is an exceptional employee who is highly dedicated to her job (*see generally*, Exhibits D through F, Supervisors' Reference Letters, dated June 5, 2007, June 4, 2007, and June 4, 2007, respectively).

Applicant's husband is an Army veteran. When he left active duty in 2001, he had trouble finding a steady civilian job. For the next five years, he experienced frequent periods of layoffs or underemployment.

The family began to struggle financially. At or about the same time, one of Applicant's children began to experience serious health problems requiring extensive evaluation and treatment. Unable to afford health insurance, Applicant fell behind on her debts.

By 2005, Applicant had accrued approximately \$12,000 of delinquent debt. None of the debts were accrued as the result of frivolous purchases. Approximately \$7,900 consist of her daughter's

medical bills (subparagraphs 1.f, 1.g, 1.k, 1.o through 1.t, and 1.v). The remainder include delinquent car insurance payments (1.a, 1.f, 1.h, and 1.i), several utilities, including cable and television services, (subparagraphs 1.b, 1.c, 1.d, 1.e, 1.h), a deficiency remaining from a repossession (1.u), and two credit cards (subparagraphs 1.w and 1.x).

Applicant had a line of credit with a \$307 balance that also grew delinquent during this period (subparagraph 1.n). She paid it in 2003 using her 2002 tax return (Tr. 33).

By November 2006, her husband gained a steady, well-paying job, and the family's financial situation began to improve. In January 2007, she began satisfying subparagraph 1.c, a cell phone account (Exhibit K, Letter from Creditor to Applicant, dated June 13, 2007). She has been making steady payments since that time, and it is no longer delinquent (Tr. 33).

At or about the time Applicant began satisfying the cell phone delinquency, she began to pay one of her delinquent utility bills (subparagraph 1.b). It is no longer delinquent (Exhibit J, Detailed Statement History of Utility Company, January 26, 2007 through May 25, 2007).

In February 2007, Applicant retained a financial counselor who helped her develop a budget and a debt payment plan. Under the plan, Applicant pays the credit counseling company \$315 each month whereupon the company then makes individual payments to each creditor. The plan includes the debts listed in subparagraphs 1.a, 1.d, 1.e,<sup>1</sup> 1.i, 1.r,<sup>2</sup> 1.s through 1.u, 1.w, and 1.x. Applicant has been making payments since March 2007.

The debts listed in subparagraphs 1.f, 1.g, 1.j, 1.k through 1.m, 1.o, 1.p, and 1.q are not included in the payment plan. With respect to subparagraphs 1.f, 1.g, and 1.o, the government alleged the respective amounts of the delinquencies, but did not identify the creditors to whom they were owed. Also, none of the debts not included in the payment plan were listed in the credit report the financial counselor used when she helped Applicant to develop it (Exhibit 2, Credit Bureau Report, dated February 20, 2007, as included in Answers to Interrogatories, dated February 22, 2007, at 7). Subparagraphs 1.j, 1.l, and 1.m are collectively less than \$450. Subparagraphs 1.p, 1.q and 1.k are owed to the same medical facility. The financial counseling agency will add any newly discovered delinquencies to the plan, and adjust the monthly amount due to reflect the additional balance. (Tr. 53).

Applicant and her husband have maintained health insurance since January 2007 (Tr. 31, 41). Currently, they have approximately \$1100 of monthly income remaining after expenses have been paid (Tr. 38-39; Exhibit H, Applicant's Budget, dated June 14, 2007).

## **POLICIES**

The adjudicative guidelines, as revised December 29, 2005, and implemented September 1, 2006, apply to the analysis of this case. In addition to brief introductory explanations for each guideline, they are divided into those that may be considered in deciding whether to deny or revoke

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<sup>1</sup>Subparagraphs 1.e and 1.h are duplicates.

<sup>2</sup>Subparagraphs 1.v and 1.r are duplicates.

an individual's eligibility for access to classified information (disqualifying conditions) and those that may be considered in deciding whether to grant an individual's eligibility for access to classified information (mitigating conditions).

Because the entire process is a scrutiny of a number of variables known as the "whole person concept," all available, reliable information about the person, past and present, favorable and unfavorable, should be considered in making a meaningful decision. Specifically these are: (1) the nature and seriousness of the conduct and surrounding circumstances; (2) the frequency and recency of the conduct; (3) the age of the applicant; (4) the motivation of the applicant, and the extent to which the conduct was negligent, willful, voluntary, or undertaken with knowledge of the consequences; (5) the absence or presence of rehabilitation; and (6) the probability that the circumstances or conduct will continue or recur in the future.

The following adjudicative guideline is raised:

Guideline F - Financial Considerations: Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness and ability to protect classified information.

Conditions pertaining to this adjudicative guideline that could raise a security concern and may be disqualifying, as well as those which could mitigate security concerns, are set forth and discussed in the conclusions below.

Since the protection of national security is the paramount consideration, the final decision in each case must be reached by applying the standard that the issuance of the clearance is "clearly consistent with the national interest" (*See generally*, Directive, Sec. 2.3, Sec. 2.5.3, Sec. 3.2, and Sec. 4.2). In reaching this decision, I have drawn only those conclusions that are based on the evidence contained in the record.

The Government is responsible for presenting evidence to establish facts in the SOR that have been controverted. The applicant is responsible for presenting evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by the Government, and has the ultimate burden of persuasion as to obtaining a favorable security decision.

## **CONCLUSIONS**

Applicant's history of financial problems triggers the application of Financial Considerations Disqualifying Conditions (FC DC) 19(a): *inability or unwillingness to satisfy debts*, FC DC 19(c): *a history of not meeting financial obligations*, and FC DC 19(e): *consistent spending beyond one's means, which may be indicated by excessive indebtedness, significant negative cash flow, high debt-to-income ratio, and/or other financial analysis*.

Applicant's financial problems began when her husband left the military and experienced difficulties finding steady, well-paying employment. At the same time, one of her children began struggling with a serious health problem that generated costly medical bills which she was unable

to pay, in part, because her husband's employment problems had rendered her unable to afford health insurance coverage. Financial Considerations Mitigating Condition (FC MC) 20(b): *the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce, or separation), and the individual acted responsibly under the circumstances, applies.*

In January 2007, shortly after her husband gained a good job, they purchased insurance coverage, and began paying their delinquencies. With the help of a financial counselor, Applicant developed a payment plan. Several of her delinquencies are consolidated in the plan, and she has been making payments since March 2007.

A number of delinquencies were not included in the payment plan. Three of them, however, are owed to creditors that the government did not identify in the SOR. The remainder were not listed in the credit report the counselor used to develop the plan. Applicant's credit counselor anticipated that the list of delinquencies that she consolidated into the payment plan may have been incomplete. Moreover, Applicant currently has ample after-expense income remaining to incorporate them into her payment plan, as the counselor recommended.

FC MC 20(c): *the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control*, and FC MC 20(d): *the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*, apply. Applicant has mitigated the financial considerations security concern.

### **Whole Person Concept**

Applicant accrued approximately \$12,000 of delinquent debt in four years. This occurred because of her husband's employment struggles, and her daughter's health concerns. Moreover, none of the delinquencies constituted frivolous purchases. Her finances improved as her husband's employment situation stabilized. Since then, she has developed a budget, consulted a counselor, and adhered to a payment plan. The income remaining after her debts have been paid renders the likelihood of a recurrence of her financial problems minimal. This evidence of rehabilitation, in conjunction with Applicant's strong character, as demonstrated by her impressive work credentials, and the credibility displayed at the hearing, compel me to conclude that her past financial problems are no longer a security risk. Clearance is granted.

### **FORMAL FINDINGS**

Paragraph 1 – Guideline F:

FOR APPLICANT

Subparagraphs 1.a - 1.y:

For Applicant

### **DECISION**

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is granted.

Marc E. Curry  
Administrative Judge